IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JOHNNY C. FENN, JR., #238558,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 2:05-CV-515-MEF
	)	
MIKE HUGHES, et al.,	)	
	)	
Defendants.	)	

ORDER ON MOTION

This case was filed on 15 June 2005 (Doc. # 1), and on 5 October 2005, the plaintiff amended his complaint to add a defendant (Doc. # 14). The defendants filed their Special Report in response to the complaint on 24 August 2005 (Doc. # 10), and they filed their response to the amended complaint on 16 December 2005 (Doc. # 21). The plaintiff was then directed on 6 January 2006 to file his response to both written reports by 24 January 2006 (Doc. # 23).

On 25 January 2006, without requesting or receiving an extension of time to file his response beyond the time permitted, the plaintiff filed a successive motion for extension of time, based in part upon a representation that Susan G. James, Esq. has "asked Plaintiff to allow her to take over the case". The plaintiff seeks an extension of an additional 60 days.

The court has been lenient with the plaintiff during the course of this litigation. Ms. James, however, has not filed a Notice of Appearance in this case and thus, she is not an attorney of record. Other factors mitigate against a sixty-day extension. First, the plaintiff has been on notice of the defenses in this case for at least five (5) months, and he has had ample time to prepare a response. Second, the court's review of the plaintiff's pleadings indicates that the plaintiff is able to represent himself in this case. Third, although the plaintiff alleges that his case is "complex", his claims are based upon a single instance of alleged brutality and a single incident on a single day.[1]

In light of all of the aforementioned circumstances, and for good cause, it is ORDERED as follows:

1. Immediately upon his receipt of this order, the plaintiff should begin preparing his response to both of the defendants' written responses to his complaint and his amended complaint. The plaintiff is REMINDED that his evidentiary response must be notarized.

2. On or before 24 February 2006, the plaintiff shall file his response to the defendants' written reports, either through his attorney or on his own behalf. The plaintiff is warned that, should Attorney James decline to represent him, the court will not grant any further extensions beyond 24 February 2006. Thus, the plaintiff must forward his materials to Attorney James immediately.

3. The plaintiff is further WARNED that, if no response is filed by 24 February

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[1]The only act of brutality that the plaintiff alleged in his complaint was that, on 3 October 2004, a Pike County, Alabama deputy sheriff "sprayed a whole can of pepper spray into [his] mouth" (Doc. # 1).

2006, the court will act in accordance with its order of 6 January 2006 (Doc. # 23), in which it advised the plaintiff that the court "will treat [his] failure to respond as an abandonment of the claims set forth in the complaint [as amended] and as a failure to prosecute this action". The court further advised the plaintiff that his failure to respond would lead to a recommendation "that this case be dismissed for such failure".

DONE this 27th day of January, 2006.

/s/ Vanzetta Penn McPherson
UNITED STATES MAGISTRATE JUDGE